

Lizeth Marin, OSB #185269
lizeth@nwjp.org
Corinna Spencer-Scheurich, OSB #130147
corinna@nwjp.org
Northwest Workers' Justice Project
812 SW Washington, Suite #225
Portland, Oregon 97205
Telephone: (503) 525-8454
Facsimile: (503) 946-3029

D. Michael Dale, OSB #771507
michaeldale@dmichaeldale.net
Law Office of D. Michael Dale
P.O. Box 1032
Cornelius, OR 97113
Telephone: (503) 357-8290
Facsimile: (503) 946-3089

Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION**

**JENNIFER GOODE, ANIBAL ALVAREZ,
SKYLER STAES, and VICTOR GONZALEZ**
individuals,

Plaintiffs,

v.

FM XPRESS LTD, an Oregon Domestic Business
Corporation and **AMAZON LOGISTICS, INC.**, a
Foreign Business Corporation,

Defendants.

Case No. 3:19-CV-01910-IM

MOTION FOR DEFAULT ORDER

LOCAL RULE 7.1 CERTIFICATION

The undersigned counsel for Plaintiffs conferred with counsel for Amazon Logistics, Inc. and they indicated that they do not take a position on this Motion.

MOTION

Pursuant to Fed. R. Civ. P. 55(a), Plaintiffs hereby request that the clerk of the above-entitled Court enter a Default Order in this matter against Defendant FM Xpress LTD (“FM Xpress”) on the ground that said Defendant has failed to appear or otherwise defend within the time prescribed by the Federal Rules of Civil Procedure.

Plaintiffs attempted to serve FM Xpress by personal service under ORCP 7D(3)(b)(i), but the process server could no longer find FM Xpress at its primary place of business/address listed on the record at the Oregon Secretary of State. (Doc. 11). Plaintiff could not complete substitute service under ORCP 7D(3)(b)(ii), because the registered agent, officer, or director could not be found at its primary place of business/address on record at the Oregon Secretary of State. Plaintiffs believe FM Xpress are no longer doing business in Oregon. Oregon Judgment and Lien Records indicate the State of Oregon filed a tax lien on November 15, 2019 against FM Xpress LTD.

Plaintiffs have completed service under ORCP 7D(3)(b)(ii)(C) by mailing in the manner specified in 7D(2)(d) Service by Mail. The summons and the complaint may be mailed to “the office of the registered agent or to the last registered office of the corporation, if any, as shown by the records on file in the office of the Secretary of State; or, if the corporation is not authorized to transact business in this state at the time of the transaction, event, or occurrence upon which the action is based occurred, to the principal office or place of business of the corporation; and, in any case, to any address the use of which the plaintiff knows or has reason to

believe is most likely to result in actual notice.” ORCP 7D(3)(b)(ii)(C). Plaintiffs mailed the summons and complaint in the form prescribed in 7D(2)(d) to the addresses on file with Oregon’s Secretary of State website, the place of business of the corporation when Plaintiffs worked for Defendants. Because FM Xpress does not appear to be operating in Oregon and has not maintained its registration in Oregon, Plaintiffs mailed the summons and complaint to the address listed under California’s Secretary of State records as its principal business office, which Plaintiffs believe is its actual principal place of business and also which resulted in actual notice.

In the alternative, Plaintiff also completed service under ORCP 7D(3)(b)(ii)(D), in the manner prescribed in O.R.S. § 60.121. Plaintiff mailed FM Xpress’ summons, complaint, and civil case assignment and discovery and pretrial scheduling order to the Oregon Secretary of State and received an acknowledgement of receipt of service listed as ECF Document 17-1.

This Motion is supported by the Declaration of Lizeth Marin.

DATED this 19th day of May, 2020.

/s/ Lizeth Marin
Lizeth Marin, OSB #185269
lizeth@nwjp.org
(503) 525-8454

Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I, Lizeth Marin, hereby certify that on May 19th, 2020, I delivered a true copy of the foregoing document via email on counsel for Defendant Amazon Logistics, Inc. as follows:

Sarah J Crooks, OSB #971512
scrooks@perkinscoie.com
Perkins Coie LLP
1120 NW Couch Street, 10th Floor
Portland, OR 97209
Telephone: (503) 727-2252
Facsimile: (503) 346-2252

James P. Walsh, Jr. (admitted *pro hac vice*)
James.walsh@morganlewis.com
Morgan Lewis & Bockis LLP
502 Carnegie Center
Princeton, NJ 08540
Telephone: (609) 919-6647
Facsimile: (609) 919-6701

Shannon N. Attalla (admitted *pro hac vice*)
Shannon.attalla@morganlewis.com
Morgan Lewis & Bockis LLP
1701 Market Street
Philadelphia, PA 19103
Telephone: (215) 963-5452
Facsimile: (215) 963-5001

Attorneys for Defendant Amazon Logistics, Inc.

/s/ Lizeth Marin
Lizeth Marin, OSB #185269
lizeth@nwjp.org
(503) 525-8454